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HOUSE BILL 2732 By
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SENATE BILL 2984
By Elsea

AN ACT to amend Tennessee Code Annotated, Section 50-6-229
and Section 50-6-206, relative to conserving settlements
for benefit of the injured employee.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 50-6-206, is amended by adding the
following as a new subsection (d):

(d) (1) The amount of a settlement approved by a court or the department of labor and
workforce development that exceeds the treating physician's impairment rating shall be
conserved for future loss of earnings capacity for the injured employee as provided in this
subsection. An award may be commuted to lump sum pursuant to Section 50-6-229 or it may
allow an employee to use the portion of the settlement that exceeds the impairment rating for
current extraordinary expenses as provided in subdivision (4).

(2) The court or the department of labor and workforce development may approve either
of the following methods to conserve the settlement:

(A) A trust account set up by the employee; or

(B) The insurance company or the self-insured employer may hold the funds for the
employee and interest will accrue on such funds at the rate of four percent (4%) per year.

(3) An attorney fee may be paid as a partial lump sum out of the amount of the settlement that exceeds the impairment rating.

(4) The employee may request the department to approve a full or partial payment of the funds set aside under this subsection if either the employment of the employee ceases or the employee suffers a substantial loss of earnings. In determining whether to approve such a payment the department shall consider the employee's age, education, skills and degree of current impairment.

(5) In no case may the trust arrangement or the holding period under subdivision (2) exceed ten (10) years. An employee may request the department to approve a payout of ten percent (10%) of the original amount held each year on the anniversary date of the settlement.

SECTION 2. Tennessee Code Annotated, Section 50-6-229(a), is amended by deleting the sixth sentence of the subsection and by substituting instead the following:

In order to commute an award the trial court shall find that the commutation is in the best interest of the employee and the court's order shall specifically state the reasons for such finding. Such finding shall also consider the ability of the employee to wisely manage and control the commuted award irrespective of whether there exist special needs. All commutations under this section are subject to the requirements of Section 1 of this act.

SECTION 3. This act shall take effect July 1, 2000, the public welfare requiring it. This act shall apply to settlements arising on or after that date.